1972. No. 284 **[NC]**

SUPREME COURT, NORTHERN IRELAND

WINTER ASSIZE

Northern Ireland Winter Assize Order 1972

Made . . . . . 1*st November* 1972
Coming into operation . . . 4*th December* 1972
To be laid before Parliament

ORDER, DATED THE 1ST DAY OF NOVEMBER 1972, MADE BY THE SECRETARY OF STATE UNDER THE WINTER ASSIZES ACT 1876.

WHEREAS by the Winter Assizes Act 1876(**a**), section 63 of the Supreme Court of Judicature Act (Ireland) 1877(**b**), the Government of Ireland Act 1920(**c**) and the Orders in Council made thereunder(**d**), the Governor of Northern Ireland may by Order in Council provide for the union of counties in Northern Ireland for the purpose of the holding of winter assizes:

AND WHEREAS by subsection (1)(*a*) of section 1 of the Northern Ireland (Temporary Provisions) Act 1972(**e**) it is provided that so long as that section has effect all functions which apart from that Act belong to the Governor in Council shall be discharged by the Secretary of State:

NOW, THEREFORE, I, THE RIGHT HONOURABLE WILLIAM WHITELAW, P.C., M.C., M.P., one of Her Majesty's Principal Secretaries of State, in exercise of the powers conferred on me by the above-mentioned enactments and Orders and of all other powers enabling me in that behalf, hereby make the following Order:—

Definition of the Winter Assize County

1. The county of Antrim, the county of Armagh, the county of Down, the county of Fermanagh, the county of Londonderry, the county of the City of Londonderry and the County of Tyrone, for the purposes of the next Winter Assizes and of this Order, shall be united together and form one county under the name of the Northern Ireland Winter Assize County.

Place for holding the Assizes

2. The next Winter Assizes for the said Winter Assize County shall be held in the Courthouse of the County of Antrim at Belfast.

Jurisdiction

3. The Court at the Winter Assizes at Belfast shall have jurisdiction to try any prisoner committed for trial at Assizes or a County Court, and also any person bound by recognizance to surrender and take his or her trial at Assizes or (except where a person has been committed for trial under section 47(6) of the Magistrates' Courts Act (Northern Ireland) 1964 to a county court) a County Court in the said Winter Assize County, who may be

(**a**) 39 & 40 Vict. c. 57.
(**b**) 40 & 41 Vict. c. 57.
(**c**) 10 & 11 Geo. 5. c. 67.
(**d**) S.R. & O. 1921, Nos. 1802 and 1804.
(**e**) 1972. c. 22.

brought before it and any person against whom an indictment has been heretofore presented in any of the aforesaid counties, the trial of which stands postponed, and any person against whom a bill of indictment shall be presented to it in accordance with section 2 of the Grand Jury (Abolition) Act (Northern Ireland) 1969(f) for any indictable offence, and shall have the same powers with respect to the trial of and passing sentence upon such prisoner or person, as a Court of Oyer and Terminer and General Gaol Delivery would have had at the Assizes in the county where, but for this Order, such prisoner or person would have been tried and for the purpose of giving effect to any sentence, whether it be a sentence of capital punishment, or of imprisonment, shall have power to commit such prisoner or person to prison there to be dealt with according to law; and any indictment presented at the said Winter Assizes, the trial of which shall stand postponed, shall be a good and valid indictment to be tried at any future Court of Oyer and Terminer and General Gaol Delivery or County Court for the county where the offence is charged to have been committed or is deemed to have been committed.

The Under Sheriff

4. Subject to the provisions of this Order, the Under Sheriff of the County of Antrim, hereinafter called the said Under Sheriff, shall alone act for the purpose of the said Winter Assizes for the said Winter Assize County, and shall have jurisdiction for that purpose over the whole district constituting the said Winter Assize County; and precepts and other documents relating to the said Winter Assizes shall be addressed to him alone.

Duties of the Under Sheriff

5. In all matters not herein specifically mentioned, the precepts to the said Under Sheriff shall direct him to issue, and he shall issue the like orders, notices, precepts, warrants and documents, and perform the same acts (mutatis mutandis), as if he were Under Sheriff for the whole of the said Winter Assize County, and all Under Sheriffs, Governors of Prisons, Bailiffs, Constables, and Officers in the said Winter Assize County shall obey accordingly.

Jurisdiction of the Under Sheriff

6. The said Under Sheriff shall as to all matters in relation to such Winter Assizes for which no specific provision is made by this Order, have the same power, jurisdiction, and responsibility as if he were Under Sheriff for the whole of the said Winter Assize County; but the several Under Sheriffs of the counties constituting such Winter Assize County shall each in respect of his own county, carry into execution all sentences imposed upon prisoners sentenced at the Winter Assizes in respect of offences committed or deemed to have been committed within their counties respectively.

Juries

7. The precepts of the Judge or Judges to the said Under Sheriff shall direct him to summons, return and empanel the Jurors from the County of Antrim, and the Jurors so summoned, returned and empanelled, shall be deemed to be good and lawful persons of the body of each and all of the several counties constituting the said Winter Assize County; and the Juries formed out of those Jurors shall be deemed to be Juries of the body of each and all of the said counties respectively, and shall have jurisdiction accordingly.

(f) 1969. c. 15 (N.I.).

Prisoners

8. The precepts of the Judges to the said Under Sheriff shall direct him to order all Governors of Prisons to cause all prisoners who, under the provisions of this Order, may be tried at Belfast, to be brought there, and the said Under Sheriff shall and may cause such prisoners to be brought accordingly without any writ of Habeas Corpus.

Duties of Officers, etc.

9. All Governors of Prisons, Constables, Officers, and other persons having authority and being under an obligation to attend the Assizes for any county comprised in the said Winter Assize County and Clerks of Petty Sessions and other officers being under an obligation to certify, transmit, or deliver to the Court of Assize, or the proper officer thereof, any indictment, recognizance, examination, deposition, calendar, exhibit, or document, shall have the same authority and be under the same obligation to attend at the Winter Assizes held for the said Winter Assize County or, as the case may be, to certify, transmit, and deliver to the Court of Assize, or the proper officer thereof (except as hereinafter in the next article is excepted), such indictment, recognizance, examination, deposition, calendar, exhibit, or document. This provision shall not apply to the Under Sheriffs of any of the counties constituting the said Winter Assize County other than the Under Sheriff referred to in Article 4.

Complaints, etc., in cases of trial

10. All complaints, depositions, calendars, or recognizances, returnable to the Clerk of the Crown and Peace at an earlier period than five clear days before the day fixed for the commencement of the Winter Assizes, shall be returned as heretofore to the Clerk of the Crown and Peace to whom they would have been returned but for this Order, but all such documents returnable at a later period and before the day appointed for the opening of the said Winter Assizes shall be returned to the Clerk of the Crown and Peace for the County of Antrim, and all such documents as shall have been returned to the Clerk of the Crown and Peace of any County forming a part of the said Winter Assize County, other than the Clerk of the Crown and Peace for the County of Antrim, shall be transmitted by such first-mentioned Clerk of the Crown and Peace at least two clear days before the first day of the Winter Assizes to the Clerk of the Crown and Peace for the County of Antrim.

Entries in Crown Books

11. In the event of any case being for trial, which had previously been before any Court of Assize or a County Court (except the Assizes or County Court for the County of Antrim), the Clerk of the Crown and Peace, in whose custody the Crown Book containing the entry or entries of any former proceedings in the case may be, shall transmit to the Clerk of the Crown and Peace for the County of Antrim, at least two clear days before the first day of the Winter Assizes, a copy of such entry or entries certified by him to be a true copy, and such certified copy shall be received for all purposes as a record of such proceedings in the same manner as if the original Crown Book had been produced by such Clerk of the Crown and Peace.

Recognizances

12. In all cases in which any person, before the date of this Order, has entered into or shall hereafter and before the said Winter Assizes enter into recognizance to appear and prosecute or give evidence in the case of any person committed for trial at any Assizes or County Court to be held in any of the counties forming the said Winter Assize County; and in all cases in